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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,798	02/12/2004	Mildred Karkoff	1913A1	5845
7590 PPG Industries, Inc. Law-Intellectual Property One PPG Place Pittsburgh, PA 15272			EXAMINER DUNHAM, JASON B	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 06/25/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/777,798

**Applicant(s)**

KARKOFF ET AL.

**Examiner**

JASON B. DUNHAM

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 11-18, 20-24, 27, 29-31, 34, 35, 37-39, 42, 43 and 45-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-18, 20-24, 27, 29-31, 34, 35, 37-39, 42, 43 and 45-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant added new claims 46-49. Applicant indicated these new claims to be independent, however the examiner notes their dependency on claims 1, 21, 29, and 38, respectively. Claims 1-8, 11-18, 20-24, 27, 29-31, 34-35, 37-39, 42-43, and 45-49 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-4, 6-8, 12-18, 20-24, 29-31, 35, 37-39, 43, and 45-49 are rejected under 35 U.S.C. 103(a) as unpatentable over Tambay (US 2001/0037255) in view of Durham (US 5,974,388).**

Referring to claim 1. Tambay discloses a computer-based system for illustrating product data comprising:

- An input interface wherein a user selects one or more products (Tambay: figures 1-2);
- At least one database comprising product data of the products (Tambay: paragraph 26);

- A program in communication with the input interface and the at least one database, wherein the program retrieves selected product data for products selected by the user (Tambay: figure 3);
- An output interface in communication with the program, which outputs and illustrates at least some of the selected product data retrieved from the database (Tambay: figures 2 and 4),
- wherein the computer-based system is interactive with the user, such that the user may adjust at least some of the product data retrieved from the database and illustrated in the output interface to generate additional product data (Durham: abstract and figure 14),
- wherein the adjustable product data comprises one or more of a component mixing ratio, a RTS price and coating component data comprising one or more of a code, a description, a price, and a package size (Durham: figure 14 and column 8, line 61 – column 9, line 11).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the system of Tambay to have included adjusting product data including component mixing ratios comprising descriptions, in order to adjust paints according to customer wishes (Durham: figure 14).

Referring to claim 2. The combination of Tambay and Durham further discloses a system wherein the program communicates with the input interface, the database, and the output interface via a communication media comprising one or more types of computer networks (Tambay: figures 1).

Referring to claim 3. The combination of Tambay and Durham further discloses a system comprising a maintenance interface in communication with the database (Tambay: paragraph 24).

Referring to claim 4. The combination of Tambay and Durham further discloses a system comprising an output device in communication with the output interface (Tambay: figure 1 and paragraph 97).

Referring to claim 6. The combination of Tambay and Durham further discloses a system wherein the user selects at least two products (Tambay: paragraph 119 and 128).

Referring to claim 7. The combination of Tambay and Durham further discloses a system wherein the input interface comprises a plurality of input screens (Tambay: paragraph 128).

Referring to claim 8. The combination of Tambay and Durham further discloses a system wherein the products comprise coatings (Tambay: abstract).

Referring to claim 12. The combination of Tambay and Durham further discloses a system wherein the input interface comprises a product search tool (Tambay: figure 3).

Referring to claim 13. The combination of Tambay and Durham further discloses a system wherein the search tool comprises a list of product suppliers and brands (Tambay: figure 4 and paragraphs 26 and 128).

Referring to claim 14. The combination of Tambay and Durham further discloses a system wherein the search tool comprises a list of paint lines (Tambay: paragraph 103).

Referring to claim 15. The combination of Tambay and Durham further discloses a system wherein the search tool comprises a list of product mix categories (Tambay: paragraph 119).

Referring to claim 16. The combination of Tambay and Durham further discloses a system wherein the search tool comprises a list of products (Tambay: figures 2-3).

Referring to claim 17. The combination of Tambay and Durham further discloses a system wherein the program resides on a server (Tambay: figure 1).

Referring to claim 18. The combination of Tambay and Durham further discloses a system wherein the database comprises product data for a plurality of products of a plurality of product suppliers (Tambay: figure 4 and paragraphs 26 and 128).

Referring to claim 20. The combination of Tambay and Durham further discloses a system wherein the system is capable of generating a report that illustrates the contents of the output interface (Tambay: paragraphs 58-65).

Referring to claim 21. Claim 21 is rejected under the same rationale set forth in the rejection of claim 1.

Referring to claim 22. The combination of Tambay and Durham further discloses a document comprising the report of claim 21 (Tambay: paragraph 115).

Referring to claims 23-24. Claims 23-24 are rejected under the same rationale set forth above in the rejection of claims 6, 8-10, and 19.

Referring to claims 29-31, 35, and 37. Claims 29-31, 35, and 37 are rejected under the same rationale set forth above in the rejection of claims 1,6-10,19,and 21-22.

Referring to claims 38-39, 43, and 45. Claims 38-39, 43, and 45 are rejected under the same rationale set forth above in the rejection of claims 1,7,9-10, and 21-22.

Referring to claims 46-49. The combination of Tambay and Durham further discloses systems and methods for illustrating competitive products (Tambay: figure 4 and paragraph 128 disclosing a user selecting product data from a multitude of suppliers).

**Claims 5, 11, 27, 34, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Tambay and Durham in view of Howes (US 6,959,284).**

Referring to claim 5. The combination of Tambay and Durham discloses all of the above but does not expressly disclose an output device consisting of a printer. Howes discloses a computer-based system for illustrating product data comprising an output device consisting of a printer (Howes: abstract and figure 5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the system of Tambay/Durham to have included a printer, as taught by Howes, in order to better identify selected products (Howes: abstract and figure 5).

Referring to claim 11. The combination of Tambay and Durham discloses all of the above but does not expressly disclose a system wherein the description designates a quality grade of the coating. Howes discloses a computer-based system for

illustrating product data wherein the description designates a quality grade of the coating (Howes: abstract and paragraph 19). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the system of Tambay/Durham to have included a quality grade of the coating, as taught by Howes, in order to assure customers of the quality of the coating (Howes: abstract).

Referring to claims 27, 34, and 42. Claims 27, 34, and 42 are rejected under the same rationale set forth above.

### ***Response to Arguments***

Applicant's arguments filed March 26, 2008 have been fully considered but they are not persuasive.

Applicant argues that the combination of Tambay and Durham does not disclose adjustable data fields as no consideration is given in Durham to adjusting the fields shown in figure 14. The examiner disagrees; as cited in the rejection of claim 1, Durham disclosed a customer choosing the type of substrate to be used and adjusting the product data accordingly. Furthermore, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning and is without a relevant citation, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only



from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant presents further arguments regarding the rejection of independent claims 21, 29, and 38 containing similar limitations to independent claim 1. These claims are rejected under the same rationale presented above. Furthermore, the examiner notes that applicant has argued against a rationale for adjusting product data. This is an invalid argument as the combination of Tambay and Durham discloses adjustable product data as cited above, the rationale provided by the examiner is directed towards a motivation (as contained within Durham) for combining the two references.

Lastly, applicant argues new claims 46-49 directed towards display of competitor's product data are patentable over the combination of Tambay and Durham. Applicant cites paragraph 31 of the specification disclosing a user selecting a supplier and searching their product paint line. Paragraph 128 of Tambay discloses a user clicking on an interface to select a subset of supplier's products to further search and view product information.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON B. DUNHAM whose telephone number is (571)272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/  
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Unit 3625

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JBD

6/20/08